

Docket No. US018178
Serial No. 10/006,466

REMARKS

The Office Action (OA) mailed March 7, 2006 has been reviewed and carefully considered. Claims 1-26 are pending, with claims 1, 4, 9, 13, 16 and 21 being independent. Reconsideration of the above-identified application, as amended, and in view of the following remarks, is respectfully requested.

Claims 9, 13, 16, 20 and 26 stand objected to under 37 CFR 1.75(c).

The objected claims have been amended. Withdrawal of the objection is respectfully requested.

Claims 1-26 stand rejected under 35 U.S.C. 112, second paragraph.

The claims have been amended to particularly point out and distinctly claim the subject matter. Withdrawal and reconsideration of the 112 rejection, second paragraph are in order.

Claims 1-26 are rejected under 35 U.S.C. 102(e) as anticipated by U.S. Patent Publication No. 2001/0051996 to Cooper.

Pursuant to MPEP, Section 2131, to anticipate a claim, the reference must teach every element of the claim. Cooper, as will be shown hereinbelow, fails to teach every limitation recited by each of independent claims 1, 4, 9, 13, 16 and 21.

CLAIM 1

Claim 1 recites, among other limitations, the following:

“securing the data files from unauthorized access so that the data files are prevented from being retrieved in a perceptible format thereof by unauthorized musicboxes “

The Examiner contends that Cooper teaches “securing the data files from unauthorized access (See abstract).” Applicant respectfully disagrees.

Cooper teaches the following:

“The media information is transparently watermarked ..., such that the information can be identified as belonging to a particular individual. A system and method..., positively identify people who have inappropriately distributed copyright materials ... without permission, and tak[e] appropriate enforcement action against such people.”

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Legally, Cooper teaches the “crime and punishment” or retribution system for illegally distributing a watermarked file by a lawful participant-pirate. Cooper is not concerned with the mere fact of copying. In fact, the tenor of the reference implies that pirating is rather tacitly encouraged, since the malfeasant can be identified and fined by paying royalties, which otherwise would be unlikely collected. The identity of the malfeasant is easily identified, as taught, for example, by Cooper in paragraph [0075]:

ALAM module 220 requires that the content pirate pay a copy charge for each copy inappropriately transferred to another person. For example, a pirate may download content with a valid digital certificate ID number embedded within the content. This same pirate may copy this content file containing their digital certificate ID number to a content sharing facility that is available to the public at large.

Cooper further teaches in paragraph [0076] that

“copies of the content file containing the digital certificate ID number may be located and a copy charge may be determined based on the number of copies inappropriately distributed. Once such a copy charge is determined, the pirate may then be charged for the piracy.”

In contrast, the claimed system is the crime preventive system configured to group a plurality of musicboxes in a trusted network of participants which are able to share certain data files that, if illegally copied, **cannot** be reproduced by a malfeasant “in a perceptible format”, as recited in claim 1. Accordingly, Claim 1 is patentable over Cooper.

CLAIM 4

Claim 4 recites the following:

“securing the data files from unauthorized copying, thereby preventing the data files from being retrieved in the predetermined data format by unauthorized musicboxes.”

The argument presented in reference to Claim 1 is fully applicable to Claim 4. As a result, Claim 4 is patentable over Cooper.

CLAIM 9

Claim 9 recites, among other limitations, the following:

“determining which of the data files on the other identified systems are not present on the persistent data store of the one system.”

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The Examiner contends that paragraph [0063] of Cooper teaches the above-recited limitation. See OA, page 10, d. The Examiner is incorrect, with all due respect.

The referred to paragraph of Cooper teaches a tracking system that is operative to determine data files, originally processed by and stored on a central database, on user devices. Files on the user device that lack a watermark are of no concern to the tracking system. In particular, Cooper teaches the following:

“a software module executing on a processor of the content distribution system 200 will be responsible for scanning user devices 115, customer sites 270 or other public network-accessible devices looking for copies of digital content that has been watermarked by the content distribution system 200”

Accordingly, the module of Cooper searches only for those files that are common to both the central database and user device and ignores files having nothing in common. In contrast, Claim 9 recites determining data files “on the other identified systems” that are NOT present on the one system. Thus, Claim 9 is patentable over Cooper.

CLAIM 13

Claim 13 recites the following:

“preventing the data files from being retrieved in the desired perceptible format by unidentified systems”

As discussed in reference to Claim 1, Cooper does not teach the system that would preclude illegal copying of the files. “In the event an inappropriate copy is found, the master database 218 will contain information pointing to the original purchaser who can then be contacted for potential legal action, payment of a suitable royalty fee or other actions.” Cooper, paragraph [0063], last sentence.

Accordingly, Claim 13, like Claims 1 and 4, is patentable over Cooper.

CLAIM 16

Claim 16 recites, among other limitations, the following:

“determining which of the data files on the other identified systems are not present on the persistent data store of the system”

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Claim 16 is patentable, at least, for the same reasons as Claim 9.

CLAIM 21

Claim 21, like Claims 1 and 4, recites "that the persistent data is prevented from being retrieved in the predetermined data format from the identified systems by an unidentified system." Accordingly, Claim 21 is patentable at least for the same reasons as presented in reference to Claims 1 and 4.


CLAIMS 2, 3, 24 and 25, CLAIMS 5-8 and 26, CLAIMS 10-12, CLAIMS 14-15, CLAIMS 17-20 and CLAIMS 22-23

These claims depend on base Claims 1, 4, 9, 13, 16 and 21, respectively, and benefit from their patentability.

Conclusion

This amendment places the instant application in condition for immediate allowance and such action is respectfully requested.

Respectfully submitted,

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